



Ministry of
Municipal Affairs
and Housing

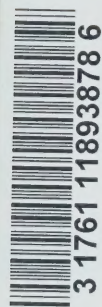


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GUIDE FOR MUNICIPAL COUNCILS

When the new *Planning Act* takes effect, municipalities will begin carrying out some of their planning responsibilities differently.

This bulletin outlines the legislative provisions which will alter methods of operation, and where applicable, it describes the choices available. Matters which have to be decided are grouped (in question form) in order of priority.

The most important decision to be made, before the effective date of the new Act, is where land severance approval authority will rest. The new Act gives this responsibility to councils of:

- upper-tier municipalities,
- cities outside regions, and
- separated towns.

Councils in these communities can delegate the authority if they wish, but this must be resolved so that a consent approval system is in place the day the Act takes effect.

All municipal councils should also consider whether they wish to appoint a planning advisory committee to replace planning boards which are automatically disbanded under the new legislation.

At the end of this bulletin is a check-list of all of the issues and choices to be made by municipal councils. The bulletin also explains how to deal with planning applications and documents already under consideration by council at the time the new Act comes into force.

1. WHO SHOULD BE RESPONSIBLE FOR GRANTING LAND SEVERANCES?

Section 49 assigns consent granting authority directly to councils of regions, counties, cities outside regions and separated towns.

Except in unorganized parts of northern Ontario, the authority to grant land severances remains at the municipal level. But it has now been assigned—at the outset—to the councils of upper-tier municipalities, to cities outside regions and separated towns. This means other municipalities now granting consents through a committee of adjustment (i.e. towns, townships, villages) will lose this authority when the new Act comes into effect, unless the municipality qualifies to retain the power through delegation from the county or region.

The legislation provides a range of options for assigned councils to delegate consent granting authority. Since some of the options require the approval of the Minister, it is essential that the council with the assigned authority decide how it will grant land severances before the Act is proclaimed.

Councils of cities outside regions and of separated towns must decide whether to carry out the consent—granting function themselves, or to appoint, under the terms and conditions specified by by-law, one of the following bodies for this purpose:

- a committee of council,
or
- an appointed municipal official,
or
- a committee of adjustment.

A regional municipality or county has the same options (except it would delegate to a land division committee rather than a committee of adjustment), or it may, by by-law, delegate the authority to a *local* municipal council, but only *with the Minister's approval*. For this to occur, there must be acceptable official plan severance policies in place to support and guide decision-making. The local council must then decide whether to carry out the function itself or further delegate it to:

- a committee of council,
or
- an appointed municipal official,
or
- a committee of adjustment.

2. SHOULD A PLANNING ADVISORY COMMITTEE BE APPOINTED?

Section 8 provides all municipal councils with the option of appointing a planning advisory committee.

As the new Act places the responsibility for all planning matters squarely with municipal council, all planning boards (other than joint boards in northern Ontario) are automatically dissolved (section 72). Councils that have or are preparing an official plan must therefore be prepared to assume all statutory authority for the plan in place of the dissolved planning board. However, the new Act allows council to appoint a planning advisory committee to assist it on any planning matter.

Council must therefore decide if it wishes to keep all planning responsibilities to itself, or to appoint a committee to help in such matters as the preparation of an official plan or zoning by-law. The committee may be composed of any number of persons, appointed or elected; may be appointed for any length of time and members paid such remuneration and expenses as determined by council.

No provincial approval is needed for the creation of an advisory committee. All that is required is a simple municipal by-law.

3. SHOULD A JOINT PLANNING ADVISORY COMMITTEE BE APPOINTED?

Section 8 provides for two or more municipal councils, by agreement, to appoint a joint planning advisory committee.

The provisions for the automatic dissolution of planning areas and planning boards also apply to joint planning areas and joint planning boards, except for those in northern Ontario which will continue until altered or dissolved by the Minister.

The assets and liabilities of dissolved joint planning boards are assumed by the member municipalities with any disputes resolved by the O.M.B.

Because of these changes all councils, and especially those now involved in joint planning arrangements, should decide if they wish to participate with other municipalities in their planning programs by appointing a joint planning advisory committee.

Again, the composition and conditions under which such a committee operates are at the discretion of the councils involved.

All existing joint planning boards in northern Ontario will continue, but there will no longer be a designated municipality. (For further information on this matter, refer to Guideline 2, Local Planning in Northern Ontario.)

4. SHOULD A COMMITTEE OF ADJUSTMENT BE APPOINTED TO GRANT MINOR VARIANCES?

Section 43 provides for the council of a local municipality which has passed a zoning by-law to appoint a committee of adjustment to grant minor variances.

A council may appoint a committee of adjustment to which the Act assigns the power to grant minor variances to zoning by-laws and interim control by-laws. Alternatively, council may also by by-law empower the committee to grant minor variances to *any* other by-law that implements an official plan. A third alternative is that council may empower a committee to grant minor variances to any other *specified* by-laws that implement an official plan and that council is of the opinion may require minor variances.

As the legislation assigns the authority to grant minor variances to a committee of adjustment, council should be aware that if such a committee is *not* appointed, by-laws can only be changed by formal council amendment and not through council using the minor variance process.

Membership on a committee of adjustment is completely at the discretion of council, and may include council members and municipal employees who were previously not eligible. Also, committee members who are *not* council members will hold office for the term of the council while council members must be appointed annually.

5. WHEN MUST A PROPERTY STANDARDS COMMITTEE BE APPOINTED?

*Section 31 provides that where a local municipal council passes a maintenance and occupancy by-law, a property standards committee **must** be established.*

Where a council has passed a maintenance and occupancy by-law, it *must* appoint a property standards committee to administer the by-law.

Under the new Act a council may appoint anyone it wishes to a committee, and is not restricted to ratepayers as in the past.

6. SHOULD DELEGATION OF THE MINISTER'S AUTHORITY TO APPROVE OFFICIAL PLANS BE REQUESTED?

While official plan approval authority continues to rest with the Minister, section 4 enables the Minister to delegate this authority.

The existing legislation which allows any of the Minister's planning authority to be delegated to a municipality remains in the new Act. Until now, however, official plan approval authority has only been delegated to certain regional municipalities. These will automatically continue to have such authority under the new Act.

The present Minister's delegation policy will be broadened to include qualifying counties. But the new Act makes clear that a delegated municipality cannot approve its own official plan. Because of this provision, delegation can only occur in a two-tier planning system for the approval of official plans and official plan amendments of local municipalities.

Therefore, county councils, and councils of restructured upper-tier municipalities with two-tier planning systems (where delegation of this kind has not occurred already), should decide if they wish to ask for official plan approval authority. The basic criteria* to qualify for such delegation will be an approved official plan and the necessary permanent planning staff to carry out the approval functions.

7. SHOULD DELEGATION OF THE MINISTER'S AUTHORITY TO APPROVE SUBDIVISION AND CONDOMINIUM PLANS BE REQUESTED?

While subdivision and condominium plan approval authority continues to rest with the Minister, section 4 empowers the Minister to delegate this authority to municipalities.

The Minister has already delegated subdivision and condominium approval authority to most restructured upper-tier municipalities. Where such delegation has occurred, it will automatically continue unless otherwise requested.

In addition to restructured municipalities, delegation will be expanded to include counties, cities outside restructured municipalities and separated towns. Those wanting this authority must meet the basic criteria* of an established planning program including professional planning staff and an approved official plan. Such municipalities must therefore decide if they want to request the delegation authority. Where such delegation does occur, the council may further delegate the authority, by by-law, to:

- a committee of council,
or
- an appointed municipal official
under the terms and conditions specified by the council in a by-law.

8. SHOULD A BY-LAW SETTING PLANNING APPLICATION FEES BE ADOPTED?

Section 68 enables a municipal council to prescribe, by by-law, a tariff of fees for planning applications.

A municipal council should decide if it wants to charge fees for planning applications and if so what that fee will be for each type of application. Fees may be charged only to meet the anticipated processing costs of planning applications by council or a committee of adjustment or a land division committee and must be set down in a municipal by-law. Anyone who feels a fee is unreasonable may pay the fee under protest and then appeal to the O.M.B. against the levying of the fee, or its amount.

This provision is the only basis under which municipalities can charge fees for planning applications.

9. SHOULD A LOCAL MUNICIPALITY ASK THE UPPER-TIER COUNCIL TO ASSUME ANY OF ITS PLANNING RESPONSIBILITIES?

Section 15 permits restructured municipalities or counties, upon request of a constituent local municipality, to assume a local planning function or provide planning advice and assistance.

* The criteria for the delegation of official plan and subdivision and condominium plan approval is dealt with in Guideline3: Delegation of Minister's authority.

A local municipality may wish to transfer all or any part of its planning responsibilities to the council of the restructured municipality or county of which it forms part. It may also wish to formally obtain planning advice and assistance. The assumption of responsibilities or the giving of advice by an upper-tier council may occur through agreement.

Despite this formal provision, it should be stressed that there is nothing to stop an upper-tier municipality from giving advice and assistance to a local municipality on an informal basis, without an agreement, as is now the case.

TRANSITIONAL PLANNING PROCEDURES

There are special legislative provisions which are intended to make the transition from the old to the new Act as simple and smooth as possible. Of particular importance are the provisions dealing with the processing of planning matters which have been started under the old legislation but cannot be completed until after the new Act is effective.

1. PROCESSING OF OUTSTANDING MATTERS

Section 74 explains how council shall deal with planning matters and proceedings that start but are not completed before the new Act is effective.

Planning matters and procedures, such as the processing of planning applications and official plan or zoning by-law issues, started under the former Act shall continue to be completed under that Act in the following circumstances:

- (a) *the approval of an official plan, amendment or repeal of a plan* if the by-law adopting the plan, amendment or repeal of a plan was passed by council before the effective date of the new Act.
- (b) *an application under subsection 17(3) of the former Act to amend an official plan* was received before the effective date of the new Act.
- (c) *a by-law designating a redevelopment area* under section 22 of the former Act if the by-law designating the redevelopment area was approved by council before the effective date of the new Act.
- (d) *a plan of subdivision* under section 36 of the former Act, if the application is made to the approving authority before the effective date of the new Act.
- (e) *a zoning by-law or amendment* if the by-law or amendment was passed by council before the effective date of the new Act.
- (f) *an application to amend a zoning by-law* under subsection 39(23) of the former Act was received by the municipality before the effective date of the new Act.
- (g) *an application for site-plan control approval* was received by the municipality before the effective date of the new Act.
- (h) *an application to a committee of adjustment, land division committee or planning board in a territorial district* was received before the effective date of the new Act.
- (i) *an application for consent* to the Minister was received before the effective date of the new Act.

2. PETITIONS TO CABINET

Section 63 removes the right of petition to Cabinet for any O.M.B. decision, not just consents and minor variances as was the case under the former Planning Act.

Although the new Act does not allow any O.M.B. decision to be petitioned to Cabinet, this does not apply to planning matters which are decided under the former Act after the new Act becomes effective, in accordance with the above special transitional procedures.

APPENDIX:
COUNCIL'S CHECKLIST

REGIONAL AND COUNTY
COUNCIL SHOULD DECIDE:

- 1. If it wishes to appoint a planning advisory committeeYes or No
- 2. If it wishes to enter into a joint planning arrangement with any municipality(ies)Yes or No
- 3. If it wishes to carry out the consent-granting function itself for all or part of its area of jurisdictionAll or Part
If all or part, if it wishes to delegate consent authority to:
 - (a) a committee of regional/county council orYes or No
 - (b) an appointed regional/county official orYes or No
 - (c) a land division committeeYes or NoIf it wishes to delegate consent authority to any local municipal council, with the Minister's approvalYes or No
- 4. If it wishes to apply to the Minister for the delegation of local municipal plan approval authorityYes or No
- 5. If it wishes to apply to the Minister for the delegation of subdivision plan and condominium approval authorityYes or No
If delegation occurs, if it wishes to carry out the function itself or delegate to:
 - (a) a committee of council orYes or No
 - (b) an appointed municipal officialYes or No
- 6. If it wishes to prescribe a tariff of fees for planning applicationsYes or No

**THE COUNCIL OF A CITY OUTSIDE
A REGION AND SEPARATED TOWN
SHOULD DECIDE:**

- 1. If it wishes to appoint a planning advisory committee Yes or No
- 2. If it wishes to enter into a joint planning arrangement with any municipality(ies) Yes or No
- 3. If it wishes to carry out the consent granting function itself Yes or No
If not, if it wishes to delegate consent authority to:
(a) a committee of council or Yes or No
(b) an appointed official or Yes or No
(c) the committee of adjustment Yes or No
- 4. If it has a zoning by-law, if a committee of adjustment will be appointed to administer minor variances Yes or No
- 5. If it has a maintenance and occupancy by-law, whether the membership should be changed to other than just ratepayers Yes or No
- 6. If it wishes to apply to the Minister for the delegation of subdivision plan and condominium approval authority Yes or No
If delegation occurs, if it wishes to carry out the function itself or delegate to:
(a) a committee of council or Yes or No
(b) an appointed municipal official Yes or No
- 7. If it wishes to prescribe a tariff of fees for planning applications Yes or No

**LOCAL MUNICIPAL COUNCIL
SHOULD DECIDE:**

- 1. If it wishes to appoint a planning advisory committee Yes or No
- 2. If it wishes to enter into a joint planning arrangement with any municipality(ies) Yes or No
- 3. If it wishes to apply for the consent authority to be delegated from the regional or county council, with the Minister’s concurrence Yes or No
- 4. If consent authority is delegated, if it wishes to carry out the function itself Yes or No
or delegate it to:
(a) a committee of council or Yes or No

- (b) an appointed official orYes or No
- (c) a committee of adjustmentYes or No
5. If it has a zoning by-law, if a committee of adjustment will be appointed to administer minor variancesYes or No
6. If it has a maintenance and occupancy by-law, what the membership of the property standards committee will beYes or No
7. If it wishes to ask the region or county council of which it forms part, to assume any of its local planning functions or provide advice and assistance in planning mattersYes or No
8. If it wishes to prescribe a tariff of fees for planning applicationsYes or No

For further information contact any of the following offices of the Ministry of Municipal Affairs and Housing:

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